

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

ROXANNE BUTLER	§	
	§	
V.	§	CIVIL ACTION NO. G-09-217
	§	
ALLSTATE INSURANCE COMPANY	§	
and TEXAS WINDSTORM INSURANCE	§	
ASSOCIATION	§	

**OPINION AND ORDER**

It is well-settled and beyond peradventure that Butler is not entitled to a jury trial under either the Seventh Amendment, Lehman v. Nakshian, 453 U.S. 156, 160 (1981), or the National Flood Insurance Act, Sandia Oil Co., Inc. v. Beckton, Director FEMA, 889 F.2d 258, 262 (10<sup>th</sup> Cir. 1989), in a claims handling dispute against a WYO carrier with the National Flood Insurance Program acting in its capacity as a fiscal agent of the United States and the equivalent of FEMA itself, Van Holt v. Liberty Mutual Ins. Co., 163 F.3d 161, 166 (3<sup>d</sup> Cir. 1998).

It is, therefore, **ORDERED** that the Plaintiff's jury demand, insofar as it seeks a jury trial against Allstate Insurance Company, is **VACATED**.

**DONE** at Galveston, Texas, this 16th day of March, 2011.

  
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John R. Froeschner  
United States Magistrate Judge